



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
9900 SW 107 AVE,
MIAMI, FL 33176

January 27, 2017

Regulatory Division
South Branch
Enforcement Section
SAJ-2017-00231 (RJK)

Dr. Javier Laureano
Director, Clean Water Division
U.S. Environmental Protection Agency, Region II
290 Broadway
New York, NY 10007

Action ID No. SAJ-2017-00231, Tallaboa, Penuelas, Puerto Rico

Dear Dr. Laureano:

This letter will serve to notify the United States Environmental Protection Agency (EPA), Region II that the Jacksonville District U.S. Army Corps of Engineers (Corps) has reviewed the above referenced case. In accordance with the enclosed Memorandum of Agreement concerning Federal enforcement for the Section 404 program of the Clean Water Act (MOA) dated September 17, 2013, the Corps has determined the activity does constitute an activity identified in Part 3. B.1 (b) of the MOA.

Information received indicates that several hundred feet of intermittent stream have been filled by sediment emanating from the Ecosystems landfill near Tallaboa, Penuelas, Puerto Rico. According to the MOA, Part 3. B.1, the EPA will act as the lead enforcement agency when an unpermitted activity involves a flagrant activity. The MOA defines the term "flagrant" not only as having prior knowledge of the need for a permit pursuant to Section 404 of the Clean Water Act, but involves an alleged violation "extensive in size and/or significance." The impact area is not contained within a limited space outside of the landfill and would be considered extensive. With respect to alleged violation being significant, it is the Corps' position Part 3. B.1(b) ii and iii of the MOA are applicable for the EPA to act in the role of lead agency. In addition, as water quality issues must be addressed with the introduction of ashes in the creek and surrounding communities, EPA would be the agency responsible for handling as impacts to water quality are within EPA's purview.

It is the Corps position that the EPA will act as the lead enforcement agency and determine the appropriate enforcement response to resolve the violation. We have enclosed a copy of all information to date in our enforcement file and the investigation report for your information.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Wells", written in a cursive style.

Terry E. Wells
Chief, Enforcement Section

Enclosures:

Field Level Agreement dated September 17, 2013

cc:

Ms. Carmen Guerrero, Director-Caribbean Environmental Protection Division, U.S.
Environmental Protection Agency.

guerrero.carmen@epa.gov

Mr. David Pohle, U.S. Environmental Protection Agency,
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